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April 20, 2017

U.S. District Judge Nicholas Garaufis
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

in the Chambers of
Judge
Nicholas G. Garaufis

COURT EXHIBIT 1

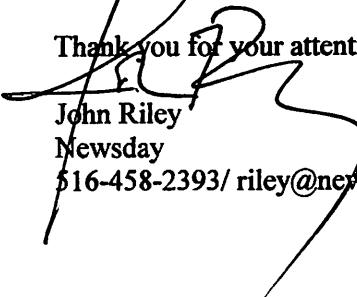
Dear Judge Garaufis:

I am a member of the public and a reporter for Newsday covering the case of U.S. v Vinas, 08CR823. I am writing to oppose the proposed closure of a hearing today relating to the sentencing of Mr. Vinas, and to request access to a "sealed letter" filed by the defense and referenced on Page 8 of Docket #55, a defense submission filed today.

As you know, under both the common law and our Constitution, there is a presumption of access for the public and press to court proceedings and judicial documents. This presumption applies to sentencing proceedings and filings related to sentencing, and can be overcome only if a judge makes specific on-the-record findings of a compelling government interest in keeping materials secret. Any sealing order must be narrowly tailored.

1. The hearing today relates to a defense request for access to classified materials that have been submitted to you ex parte. It seems obvious that until and unless you rule that the defense should have access, these classified materials cannot be discussed by the defense and will not be discussed by the government or you. Therefore, it is unclear how arguments about whether secret information should be revealed to the defense would reveal the unrevealed secret information. There is no "compelling government interest" in hiding from the public the legal arguments.
2. There is a great risk that this discussion of materials that you know but the defense doesn't and their potential significance will become, effectively, part of the actual sentencing hearing on Mr. Vinas by another name, and involve attempts to sway you. The sentencing of this former terrorist and lauded cooperator is a quintessential exercise of the public's power, and must not in any part be conducted secretly.
3. With respect to the sealed letter referenced on Page 8 of Mr. Bachrach's filing, you have made none of the required findings and there has been no apparent attempt at narrow tailoring through redactions. Since the defense doesn't know the classified information it is apparently speculating about in the sealed letter, it is difficult to understand how the letter could reveal it and justify sealing on that basis.

Thank you for your attention.


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U.S. Dist. Judge NICHOLAS JAMES
EDNY
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EASTERN DISTRICT
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